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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/656,789

09/05/2003

Thomas J. Foth

F-627

8969

7590

06/08/2010

Pitney Bowes Inc.
Intellectual Property & Technology Law Department
35 Waterview Drive
P.O. Box 3000
Shelton, CT 06484

EXAMINER

ANDERSON, FOLASHADE

ART UNIT

PAPER NUMBER

3623

MAIL DATE

DELIVERY MODE

06/08/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/656,789
Filing Date: September 05, 2003
Appellant(s): FOTH ET AL.

Ronald Reichman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 03/24/2010 appealing from the Office action mailed 10/29/2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-3, 6-22 and 31-34 are pending and rejected.

Claims 4, 5, and 23-30 are canceled.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

5,765,138	Aycock et al	09-1998
2002/0156736	Piggot et al	10-2002
5,950,172	Klingman	09-1999
2004/0039631	Crockett et al	02-2004
Official Notice		

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 6-8, 10-19, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock et al. (US Patent 5,765,138) in view of Piggot et al (US Publication 2002/0156736).

Claim 1 and 12

Aycock teaches a method for controlling a system for automatically generating and distributing information, comprising the steps of:

- a) monitoring a document as it is processed by a user (col.10, lines 29-33);
- c) accessing a database that stores information about various users including weights assigned by the various users (col. 2, lines 65-67 and col. 3, lines 1-3; where the business system includes a database see fig. 2) and detail level assigned to the various users (col. 3, lines 9-18; where the maturity level is an example of a detail level);
- d) accessing a database of information relating to relationships between an enterprise and other parties wherein said information includes a value of said

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relationship to said enterprise, a quality of said relationship to said enterprise and the weights assigned by the various users (col. 3, lines 9-13 and 46-51); and

e) if a record relating to said party exists in said database, providing information relating to a relationship between said enterprise and said party to said user (col. 11, lines 23-30) based upon the detail level assigned to the user (col. 3, lines 18-23 and col. 11, lines 10-20; where the maturity level is an example of a detail level).

Aycock does not expressly teach b) identifying a reference to a party in said document; however it is implied in the reference where the vendor/supplier identification must be tied to the responses submitted via the supplier system (col. 9, lines 17-21 and 64-66 or in the information stored to the vendor database (fig. 2); therefore this limitation would have been obvious to one of ordinary skill in the art at the time the invention was made.

Official Notice is taken that b) identifying a reference to a party in said document was old and well known in the art at the time the invention was made as evidenced by Piggot (0014);

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the invention of Aycock the b) identifying a reference to a party in said document as taught by what was old and well known in the art at the time the invention was made since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claim 12 is the system used to implement claim 1 and is therefore implied in and substantially similar to this claim and is therefore rejected for the same reasoning given above. Further Aycock teaches the additional limitations of claim 12:

a) a computer for processing documents (col. 4, lines 28-31);

b) a database system comprising (fig. 2 # 62, 64, 66):

b1) a database of information relating to relationships between an enterprise and other parties (col. 9, lines 37-58); and

b2) a server for controlling access to said database and for communicating with said computer (col.15, lines 29-42); where

c) said computer is programmed to:

c3) send information identifying said party to said server (abstract and col. 15, lines 40-43; where it is inherent that identifying information is contained in the response); and where

d) said server is programmed to (col. 15, lines 31-33):

d1) receive said identifying information (abstract and col. 15, lines 40-43);

Claim 2 and 13

Aycock teaches all the limitation of claim 1 where said information is generated, at least in part, based upon survey responses by system users (col. 3, lines 27-35; where an rfp/rfq is an old and well known method of surveying vendors/suppliers).

Claim 13 is the system used to implement claim 2 and is therefore implied in and substantially similar to this claim and is therefore rejected for the same reasoning given above.

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Claim 3 and 14

Aycock teaches all the limitation of claim 2 where said user is requested to respond to a survey when said information is provided (col. 3, lines 27-35).

Aycock does not expressly teach said user's response to said survey is used to update said information.

Piggot teaches said user's response to said survey is used to update said information (0082).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the invention of Aycock the user's response to said survey is used to update said information as taught by Piggot since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claim 14 is the system used to implement claim 3 and is therefore implied in and substantially similar to this claim and is therefore rejected for the same reasoning given above.

Claim 6 and 17

Aycock teaches all the limitation of claim 1 where said further information includes a weighted sum of ratings for a plurality of characteristics of said relationship (col. 3, lines 3-13).

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Claim 17 is the system used to implement claim 6 and is therefore implied in and substantially similar to this claim and is therefore rejected for the same reasoning given above.

Claim 7 and 18

Aycock teaches all the limitation of claim 1 where said further information is provided in graphical form (col. 10, lines 23-25 and col.13, lines 20-27).

Claim 18 is the system used to implement claim 7 and is therefore implied in and substantially similar to this claim and is therefore rejected for the same reasoning given above.

Claim 8 and 19

Aycock teaches all the limitation of claim 1 however Aycock is silent on where said information is generated, at least in part, based upon survey responses by other enterprises.

Piggot teaches where said information is generated, at least in part, based upon survey responses by other enterprises (0018).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the invention of Aycock the said information is generated, at least in part, based upon survey responses by other enterprises as taught by Piggot since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

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Claim 19 is the system used to implement claim 8 and is therefore implied in and substantially similar to this claim and is therefore rejected for the same reasoning given above.

Claim 10

Aycock teaches all the limitation of claim 1 including the further step of formulating an inquiry to an information source in response to a request from said user (col. 10, lines 28-33).

Claim 11 and 22

Aycock teaches all the limitation of claim 10 where the scope of said inquiry, and to which information source, or sources, said inquiry is to be sent, are determined based on the nature and importance of the matter to which said inquiry relates (col.9, lines 13-16 and col. 13, lines 29-34).

Claim 22 is the system used to implement claim 11 and is therefore implied in and substantially similar to this claim and is therefore rejected for the same reasoning given above.

Claim 15

15. A system as described in claim 12 where said information sent relates to a value of said relationship to said enterprise (col. 7, lines 46-65; where the relationship is in whether the vendor/supplier becomes an approved supplier or is rejected).

Claim 16

16. A system as described in claim 15 where said sent information includes further information relating to a quality of said relationship (col. 5, lines 1-5).

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Claim 21

21. A system as described in claim 12 where said computer is further programmed to receive a request from said user for information from other information sources (col. 9, lines 13-16) and said server is further programmed to formulate an inquiry to an information source in response to said request (col. 13, lines 29-34).

3. Claims 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock et al. (US Patent 5,765,138) and Piggot et al (US Publication 2002/0156736) in further view of Klingman (US Patent 5,950,173).

Claim 9 and 20

Aycock and Piggot teaches all the limitation of claim 8; however neither teaches where said other enterprise responses are collected and distributed by a third party in a confidential and secure manner to protect critical confidential information of said other enterprises.

Klingman teaches where said other enterprise responses are collected and distributed by a third party in a confidential and secure manner to protect critical confidential information of said other enterprises (abstract and col. 14, lines 49-53).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the invention of Aycock and Piggot the said other enterprise responses are collected and distributed by a third party in a confidential and secure manner to protect critical confidential information of said other enterprises as taught by Klingman since the claimed invention is merely a combination of old elements, and in

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the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claim 20 is the system used to implement claim 9 and is therefore implied in and substantially similar to this claim and is therefore rejected for the same reasoning given above.

4. Claims 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock et al. (US Patent 5,765,138) and Piggot et al (US Publication 2002/0156736) in further view of Crockett et al (US Publication 2004/0039631)

Claim 31 and 33

Aycock and Piggot teaches all the limitation claim 1, Aycock further teaches assigning weights to vendor requirements (characteristics) (col.3, lines 63-67); however Aycock and Piggot are silent on wherein the weights assigned by the various users are weighted sums of the various users are responses to statements pertaining to various characteristics.

Crockett teaches wherein the weights assigned by the various users are weighted sums of the various users are responses to statements pertaining to various characteristics (0006-07, 0022 and 0030).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the invention of Aycock and Piggot the wherein the weights assigned by the various users are weighted sums of the various users are

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responses to statements pertaining to various characteristics as taught by Crockett since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claim 33 is the system used to implement claim 31 and is therefore implied in and substantially similar to this claim and is therefore rejected for the same reasoning given above.

Claim 32 and 34

The combination of Aycock and Piggot in view of Crockett teaches “wherein the weights assigned by the various users are weighted sums of the various users are responses to statements pertaining to various characteristics”. Aycock and Piggot in view of Crockett does not expressly teach the specific data recited in claims “wherein the characteristics include commitment, trust and satisfaction”; however, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP, 2106.32.

Claim 34 is the system used to implement claim 32 and is therefore implied in and substantially similar to this claim and is therefore rejected for the same reasoning given above.

(10) Response to Argument

In the Appeal Brief, Appellant argues that:

1. Aycock and/or Piggot taken separately or together do not disclose or anticipate steps (c) and (e) of claim 1 and those claims dependent thereon. Namely, c) accessing a database that stores information about various users including weights assigned by the various users and detail level assigned to the various users; e) if a record relating to said party exists in said database, providing information relating to a relationship between said enterprise and said party to said user, based upon the detail level assigned to the user. See Appeal Brief p. 16

Respectfully the Examiner disagrees with applicants accretion and notes that the quoted sections of Aycock in Applicant's Brief were not cited as teaching the limitation in question.

With respect to claim 1, limitation (c) Aycock expressly teaches "vendor requirements are selected for a vendor qualification, and the vendor requirements are assigned a relative weight on the basis of project requirements . . . requirements are provided to a supplier . . . which may be downloaded from the evaluator's business system . . . supplier responses are assigned a scaled score . . . scaled score of the supplier responses are correlated with the relative weight of the requirement" (col. 2,

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lines 64 – col. 3, lines 1-10) and “vendor database that stores existing vendor performance reports . . . supplier responses. . . the vendor database includes all information related to evaluations of suppliers and approved vendors” (col. 9, lines 37-57). Aycock further teaches “the user evaluating the RFP/RFQ responses may access the vendor database in order to identify prior vendor performance” (col. 11, lines 42-45). These teaching of Aycock have been interpreted to be the analogous equivalent of the instant limitation “accessing a database that stores information about various users including weights assigned by the various users.”

Additionally with respect to claim 1, limitation (c) Aycock also expressly teaches “supplier maturity level refers to the supplier’s sophistication and capabilities in establishing and maintaining quality standards in the design and production, distribution, serviceability, and reliability of the supplier’s product or service.” (col. 3, lines 9-13). This teaching of Aycock has been interpreted to be the analogous equivalent of the instant limitation “detail level assigned to the various users.”

Finally, with respect to claim 1, limitation (e) Aycock teaches “if the supplier is a recognized vendor from previous projects, the main processing system may prompt the user of the business system evaluating the RFP/RFQ responses whether the supplier should be automatically approved, as well as prompt to access the vendor database for existing action registers, vendor historical performance or prior on-site audit reports for the vendor selected.” (col. 11, lines 23-30). Where the indication of a recognized vendor implies a previous relationship thus renders the instant limitation of “if a record relating to said party exists in said database, providing information relating to a

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relationship between said enterprise and said party to said user” obvious. Again Aycock teaches a “supplier maturity level refers to the supplier’s sophistication and capabilities in establishing and maintaining quality standards in the design and production, distribution, serviceability, and reliability of the supplier’s product or service.” (col. 3, lines 9-13). This teaching of Aycock has been interpreted to be the analogous equivalent of the instant limitation “based upon the detail level assigned to the users.”

Alternatively, while not used to teach the features in question, Piggot also teaches at least the “detail level assigned to the various users” portion of claim 1, limitation (c) and (e). Piggot expressly teaches “determine[ing] whether an identified user matches a participant profile for the market research, so that an identified user is only asked a question if they meet the participant profile” (par. 0014) where access to the application is limited to those user’s falling within a specified profile requirements i.e a detail level.

2. Aycock and/or Piggot taken separately or together do not disclose or anticipate elements (d2) and (d4) of claim 12 and those claims dependent thereon. Namely, d2) accessing a database that stores information about various users, including weights to be assigned by various users and detail level assigned to the various users; d4) if a record relating to said party exists in said database, send said information relating to a relationship between said enterprise and said party to said computer, based upon the detail level assigned to said user using said computer. See Appeal Brief p. 16.

Elements (d2) and (d4) of claim 12 are identical to elements (c) and (e) of claim 1 which have been fully addressed above in the response to argument 1.

3. The Examiner is also required to explain how and why one having ordinary skill in the art would have been led to modify an applied reference and/or combine applied references to arrive at the claimed invention. See Appeal Brief p. 17

In the previous office action the motivation was provided based on the recent decision by the Supreme Court in *KSR International Co. v. Teleflex Inc.* (KSR), 550 U.S. ___, 82 USPQ2d 1385 (2007), specifically rational A, combining prior art elements according to known methods to yield predictable results.

Aycock was cited to teach limitations (a), (c), (d) and (e) of claim 1. Official Notice as evidenced by Piggot was taken to show limitation (b) of claim 1 was very old and well known in the art at the time the invention was made. The combination was grounded in the sense that it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the invention of Aycock the feature as taught by Official Notice that was evidenced by Piggot since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

4. Aycock, Piggot and/or Klingman taken separately or together do not disclose or anticipate steps (c) and (e) of claim 1 and those claims dependent thereon. Namely, c) accessing a database that stores information about various users including weights assigned by the various users and detail level assigned to the various users; e) if a record relating to said party exists in said database, providing information relating to a

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relationship between said enterprise and said party to said user, based upon the detail level assigned to the user. See Appeal Brief p. 18-19

It is noted by the Examiner that Klingman, which teaches a system that allows user access to information related to evaluations, is not cited to each the limitations in questioned. The reasoning for the obviousness rejection is fully explained above in the response to argument 1.

5. Aycock, Piggot and/or Klingman taken separately or together do not disclose or anticipate elements d2 and d4 of claim 12 and those claims dependent thereon. Namely, d2) accessing a database that stores information about various users, including weights to be assigned by various users and detail level assigned to the various users; d4) if a record relating to said party exists in said database, send said information relating to a relationship between said enterprise and said party to said computer, based upon the detail level assigned to said user using said computer. See Appeal Brief p. 19

It is noted by the Examiner that Klingman, which teaches a system that allows user access to information related to evaluations, is not cited to each the limitations in questioned. The reasoning for the obviousness rejection is fully explained above in the response to argument 1.

6. Aycock, Piggot and/or Crockett taken separately or together do not disclose or anticipate steps c and e of claim 1 and those claims dependent thereon. See Appeal Brief p. 20

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It is noted by the Examiner that Crockett, which teaches a system for the assessment of an organization's customer relationship management capabilities, is not cited to each the limitations in questioned. The reasoning for the obviousness rejection is fully explained above in the response to argument 1.

7. Aycock, Piggot and/or Crockett taken separately or together do not disclose or anticipate elements d2 and d4 of claim 12 and those claims dependent thereon. See Appeal Brief p. 20.

It is noted by the Examiner that Crockett, which teaches a system for the assessment of an organization's customer relationship management capabilities, is not cited to each the limitations in questioned. The reasoning for the obviousness rejection is fully explained above in the response to argument 1.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Folashade Anderson/

Examiner, Art Unit 3623

/Beth V. Boswell/

Supervisory Patent Examiner, Art Unit 3623

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Conferees:

Andre Boyce /bvb/ for

Primary Patent Examiner, Art Unit 3623

Vincent Millin /vm/

Appeals Conference Specialist